

AMENDED IN SENATE JULY 1, 2009

AMENDED IN SENATE JUNE 28, 2009

AMENDED IN ASSEMBLY APRIL 28, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 362**

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**Introduced by Assembly Members Miller, Garrick, and Ma**

February 23, 2009

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An act to add Section 490.2 to the Penal Code, relating to theft.

### LEGISLATIVE COUNSEL'S DIGEST

AB 362, as amended, Miller. Political signs: theft and damage.

Existing law generally establishes various offenses constituting theft.

This bill would make it a crime, except as specified, for a person to take, possess, damage, reuse, or move any political sign or signs without authorization from the owner of the sign or signs and with the intent to prevent, substantially alter, or substantially obscure the communication of the sign. The bill would make a violation of this provision punishable as an infraction or a misdemeanor, as specified, and would make a 2nd or subsequent violation a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, a fine not exceeding \$2,000, or both. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 490.2 is added to the Penal Code, to read:  
2     490.2. (a) A person who takes, possesses, damages, reuses, or  
3     moves any political sign or signs without authorization from the  
4     owner of the sign or signs and with the intent to prevent,  
5     substantially alter, or substantially obscure the communication of  
6     the sign, *is guilty of* an infraction or a misdemeanor. Upon a second  
7     or subsequent conviction of a person under this section, the person  
8     shall be guilty of a misdemeanor, punishable by imprisonment in  
9     a county jail not exceeding one year, a fine not exceeding two  
10    thousand dollars (\$2,000), or both.

11    (b) For purposes of this section, the following terms apply:

12    (1) "Owner" means the campaign for which the sign was created,  
13    a purchaser of a sign, a person who received a sign as a gift, a  
14    person who has given permission for the placement of the sign on  
15    his or her property, or a person in lawful possession of property  
16    who has given permission for the placement of the sign on that  
17    property.

18    (2) "Political sign" means any sign displayed through the day  
19    of an election that advocates the election of a specific candidate  
20    for official office or advocates a position regarding a ballot issue  
21    or issues.

22    (3) The prohibition in subdivision (a) does not apply to a law  
23    enforcement officer, local government official, or authorized  
24    representative of the campaign for whom the sign was created,  
25    while acting within the scope of his or her official capacity, to a  
26    private property owner who has not given consent to the placement  
27    of a political sign on his or her property, or to a person in lawful  
28    possession of property who has not given permission for the  
29    placement of the sign on the property.

1 (c) Nothing in this section shall preclude prosecution and  
2 punishment under any other provision of law, including, but not  
3 limited to, theft and vandalism.

4 (d) This section shall not be interpreted so as to preempt any  
5 valid local ordinance regulating the time, place, or manner of the  
6 placement or display of a political sign.

7 SEC. 2. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.